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ABSTRACT

The National Educational Research Policy and Priorities Board has developed standards for the conduct and evaluation of research, development, and dissemination carried out under the auspices of the Office of Educational Research and Improvement (OERI) of the U.S. Department of Education. This handbook explains the scope and significance of the standards, which require OERI to subject applications for funding to peer review, to evaluate all existing projects to see how well they are performing, and to select promising and exemplary programs to share with educators across the United States. The three appendixes reproduce the full text of the standards as they were published in three phases (1995, 1997, and 1998) in the "Federal Register." (SLD)

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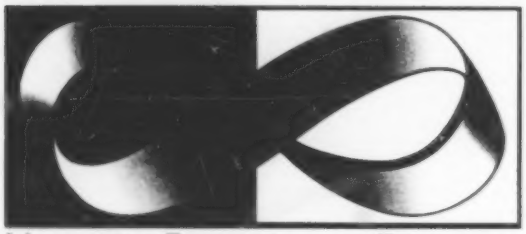

NATIONAL EDUCATIONAL RESEARCH POLICY & PRIORITIES BOARD

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U.S. Department of Education

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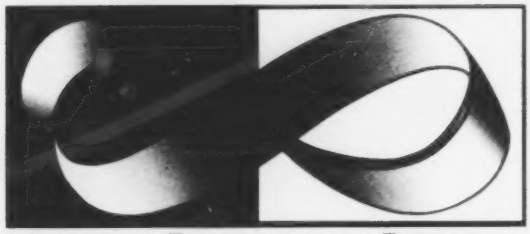

NATIONAL EDUCATIONAL RESEARCH
POLICY & PRIORITIES BOARD

Attaining Excellence: A Handbook on the Standards for the Conduct and Evaluation of Research Carried Out by the Office of Educational Research and Improvement

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U.S. Department of Education

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April 1999

This publication was prepared under contract to the National Educational Research Policy and Priorities Board. Any opinions, findings, or conclusions are those of the author and do not necessarily reflect the views of the U.S. Department of Education or any agency of the United States Government.

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National Educational Research Policy and Priorities Board

The National Educational Research Policy and Priorities Board (NERPPB) is authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board was established to work collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement (OERI) to forge a national consensus with respect to a long-term agenda for educational research, development, dissemination, and the activities of the Office. The Board regularly reviews, evaluates, and publicly comments upon the implementation of its policies by the U.S. Department of Education and the Congress.

The Secretary of the U.S. Department of Education appoints members of the Board. They represent the research community, school-based professional educators, and individuals who are knowledgeable about the educational needs of the United States.

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Foreword

One of the chief responsibilities the Congress gave the National Educational Research Policy and Priorities Board (NERPPB) in its authorizing legislation was to review and approve standards for the conduct and evaluation of all research, development, and dissemination carried out under the auspices of the Office of Educational Research and Improvement (OERI) of the U.S. Department of Education. These standards were designed to assure that such activities meet the highest criterion of professional excellence.

The development of the standards was a lengthy process. The Assistant Secretary for the Office of Educational Research and Improvement examined the procedures utilized by the National Institutes of Health, the National Science Foundation, and other federal agencies, and solicited recommendations from research organizations and from the public. The standards were published in three phases over several years, as the law required.

The Board has chosen to complete its mandate with this brief handbook which explains the scope and significance of the standards for the research community and the public, and reproduces in the appendices the full text of the standards as published in the Federal Register. We have firm expectations that the standards will be another powerful engine for eliciting the knowledge upon which educational reform may continue to build.

Kenji Hakuta
Chair
National Educational Research Policy and Priorities Board

Acknowledgments

Many individuals contributed to this publication. Special thanks to Kay McKinney, the writer, who summarized the purpose and content of the standards, and to OERI staff members Margo Anderson and Patricia Knight, who provided critical technical comments. Additional commentary was provided by Marilou Hyson, Donna Hinkle, and Jim Fox. Thanks also to Donna Timm of the National Library of Education; Bob LeGrand and Diane Magarity of the Media and Information Services staff at OERI; and to NERPPB staff members Thelma Leenhouts and Mary Grace Lucier.

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Appendix B: Part II—Department of Education, 34 CFR Part 701, Office of Educational Research and Improvement (OERI) Conduct and Activities Evaluation Standards; Designation of Exemplary and Promising Programs; Final Rule 17

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Attaining Excellence

Before trying a new medicine, most Americans want assurance that it has met certain safety and efficacy standards and earned the approval of the U.S. Food and Drug Administration. But what assurances are there about the reliability of education programs intended to improve the learning and achievement of the nation's children? How can consumers judge their quality, and who will vouch for their effectiveness?

If the program in question is an activity funded by the U.S. Department of Education's Office of Educational Research and Improvement (OERI), educators and taxpayers can be assured that it has been subjected to a vigorous peer review process and that it meets the highest standards of professional excellence.

OERI is the branch of the U.S. Department of Education primarily responsible for funding research and demonstration projects, collecting education statistics, and sharing information about education programs that work.

OERI has always used a system of peer review, the use of recognized experts to evaluate proposed and funded research and program activities. Now, however, OERI has for the first time defined and published the professional qualifications individuals must possess in order to become peer reviewers and a consistent set of criteria reviewers must use to determine the success or potential for success of any program funded and disseminated by OERI.

The new standards govern how OERI conducts business. All OERI activities must now meet a specific set of published standards that reflect the highest levels of professional excellence. The standards not only offer OERI a yardstick by which to measure quality, but also ensure that everyone is measured by the same yardstick. The standards also reinforce OERI's confidence that the projects it funds will contribute to improving the education of all students.

The standards can help many OERI constituents. For researchers, they offer guidance about OERI's goals and criteria for awarding grants and contracts. For teachers and administrators, they offer reassurance that the programs OERI funds and the information it disseminates have met certain high requirements. For parents, other taxpayers, policymakers, and members of Congress, they offer a means of holding OERI accountable for its use of federal dollars.

The new standards were developed by the Assistant Secretary, his staff, and by members of the National Educational Research Policy and Priorities Board, which collaborates with the Assistant Secretary in the development of research priorities. The 15-member Board includes educational researchers, practitioners, parents, and other individuals who have expertise and broad perspectives in the education field.

This handbook provides a general overview of the standards and highlights some of their key characteristics. Precise legal explanations of the standards are available from the *Federal Register*, as indicated in the appendix to this document.

When Does OERI Use Peer Review?

The new standards require OERI to use peer review for three major program activities: to review applications for funding; to evaluate all existing projects to determine how well they are performing; and to select promising and exemplary programs to share with educators across the country.

Review of Applications

To help ensure that OERI funds only high quality projects, all applications for OERI grants and cooperative agreements and any contract proposal for more than $100,000 must undergo a peer review. Generally, applications and proposals will be reviewed by three to five expert reviewers.

Evaluation of Funded Projects

In a major move to continuously improve the quality of funded projects, OERI now requires that these projects be evaluated at least twice after they are funded: at least once while the project is under way and again at its conclusion. The interim reviews will allow OERI to fine tune project activities and, if necessary, to correct any problems. In the past, projects were evaluated but not according to a published set of standards. All OERI research, development and dissemination activities, ranging from the smallest purchase orders and commissioned papers to the largest research projects and national research centers, will now be subjected to this peer review.

Identifying Exemplary and Promising Programs

Another of OERI's functions is to examine education programs from across the country to determine whether they should be designated as "exemplary" or "promising" and disseminated to the field. The new standards require that each

program submitted for consideration be assessed by an expert panel of peer reviewers and judged by a common set of standards. The panels will designate a program as "exemplary" if empirical data demonstrate that it is effective in improving student achievement, or "promising" if there is sufficient evidence that the program shows promise for improving student achievement. Programs may be submitted to OERI for review at any time by individuals and organizations, or they may be proposed by the Secretary of Education.

Who May Serve as Peer Reviewers?

It depends on what program is being reviewed. Generally, all peer reviewers must be leaders in the field and must have proven expertise in the subject matter they are reviewing. They also must meet stringent conflict-of-interest regulations. The Secretary of Education selects each peer reviewer and may solicit nominations for peer reviewers from professional associations, nationally recognized experts, and other sources. Some of the more specific qualifications include:

- Individuals reviewing applications for funding must have knowledge about education policy or practice, and theory or methodology in the subject they are reviewing.

- Reviewers evaluating how well existing grants, cooperative agreements, and contracts are performing must have knowledge and expertise in the subject area being reviewed. To evaluate the performance of the recipients, their qualifications may include expert knowledge about theory, methods, and education policies and practices as well as practical experience related to the topic they are evaluating and in managing complex organizations.

- Experts selected to help OERI designate "exemplary" or "promising" programs must have in-depth knowledge of the subject area or content of the program or group of programs they will be evaluating. To ensure that the peer reviewers represent both practice and research, each panel must include at least one current teacher, principal, or other school-based or community-based professional, and at least one individual experienced in evaluating educational programs.

What Criteria Will Peer Reviewers Use?

The answer depends on which of the three activities is being reviewed. While the criteria are different for each of the three, all were designed with one goal in mind: to ensure that everything OERI does is oriented towards its customers,

credible to researchers, and useful to practitioners. Here is a summary of the three sets of criteria.

Criteria for Selecting Projects for Funding

Grants and cooperative agreements are selected for funding according to a set of evaluation criteria specifically designed to identify the best. Peer reviewers consider one or more of the following:

- Is the project nationally significant?
- What is the quality of the project's design?
- What are the qualifications and potential contributions of the project personnel?
- Is the proposed budget adequate to complete the project?
- Is the management plan adequate?

Answering these questions will help reviewers determine whether to recommend to OERI that the project be funded. For each competition, criteria are further defined to target the specific purposes and expected outcomes for funded activities.

Contract proposals will be judged by specific criteria, which may include but are not limited to:

- Technical excellence;
- Management capability;
- Personnel qualifications;
- Prior experience;
- Past performance; and
- Schedule compliance.

Criteria for Evaluating Funded Projects

To help OERI determine how well each of its funded projects is performing, peer reviewers will examine the projects to see if each is meeting a standard set of four criteria. The same criteria will be used for both interim and final reviews. The criteria will be especially useful during interim reviews because they will allow OERI to assess a project's progress and determine if technical assistance is necessary to ensure that the project achieves its objectives.

Peer reviewers will thoroughly review each project and look for evidence that the project:

- Is being well implemented and managed;
- Is of high quality;
- Is producing products and services that are useful; and
- Will have an impact on the field of education.

OERI will ask reviewers to consider additional criteria for specific types of projects.

Criteria for Selecting Exemplary and Promising Programs

If they are to use them with confidence, educators must have assurance that the programs OERI deems "exemplary" or "promising" truly meet these high standards. OERI requires its peer review panels to use four criteria when examining programs that apply or are nominated for this honor. The standards help to assure that these programs are high quality, research-based programs that have provided evidence that they have improved teaching, learning, or both, or have demonstrated other worthy educational performance outcomes. To determine if a program should be recommended as "exemplary" or "promising," peer reviewers must evaluate:

- Evidence of a program's success;
- Quality of the program;
- Educational significance; and
- The program's replicability.

OERI and the National Educational Research Policy and Priorities Board have invested much thought and energy in developing these new standards. They sought input from practitioners, policymakers, researchers, the public, and other federal agencies in an effort to improve the quality of the agency's programs and projects. The new standards will enhance OERI's ability to provide the broad field of education and the nation access to programs and activities that meet the highest level of professional excellence.

For further information, consult:

- OERI's Home page: ***www.ed.gov/offices/OERI/***
- *Federal Register* Home page: ***www.nara.gov/fedreg/***

Appendix A

Part II—Department of Education
34 CFR Part 700

Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts; Final Rule

federal register

Thursday
September 14, 1995

Part II

Department of Education

34 CFR Part 700

Standards for the Conduct and Evaluation of Activities Carried Out by the Office Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 700

RIN 1850–AA51

Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Assistant Secretary for Educational Research and Improvement establishes final regulations that set standards for the evaluation of applications for grants and cooperative agreements and proposals for contracts. The development of these standards is required by the Office of Educational Research and Improvement's authorizing legislation, the "Educational Research, Development, Dissemination, and Improvement Act of 1994." The standards ensure that these application and proposal evaluation activities meet the highest standards of professional excellence.

EFFECTIVE DATE: These regulations take effect October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Edward J. Fuentes, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 600, Washington, DC 20208–5530. Telephone (202) 219–1895. Internet electronic mail address: stan-questions@inet.ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 31, 1994, President Clinton signed Pub. L. 103–227, which includes Title IX—the "Educational Research, Development, Dissemination, and Improvement Act of 1994" (the "Act"). The Act restructured the Office of Educational Research and Improvement (OERI) and endowed it with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students. The Act also required the establishment of a National Educational Research Policy and Priorities Board (the "Board") to work collaboratively with the Assistant Secretary to identify priorities to guide the work of OERI.

The legislation directed the Assistant Secretary to develop, in consultation with the Board, such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to ensure that such activities meet the highest standards of professional excellence. The legislation required that the standards be developed in three phases. These regulations implement the first phase of the standards. The Assistant Secretary will publish at a later date additional proposed regulations to implement the remaining standards in accordance with the timelines established in the Act. The legislation requires the Board to review and approve the final standards.

On June 7, 1995, the Assistant Secretary for Educational Research and Improvement published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 30160).

Analysis of Comments and Changes

In response to the Assistant Secretary's invitation in the NPRM, five parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Issues are grouped according to subject with appropriate sections of the regulations referenced in parentheses. Substantive issues are discussed under the section of the regulations to which they pertain. In addition to the public comment, the comments of the Board's Committee on Standards are also addressed. That Committee met in public session on August 4, 1995, to provide final input for the Board and to act on the Board's behalf in approving the standards. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Qualifications of Peer Reviewers (§ 700.11)

Comments: Two commenters believed that § 700.11 should require the majority of reviewers for a given application to meet the qualifications in § 700.11(a)(1)(i). These commenters were concerned that requiring individual reviewers to possess only one or more of the qualifications listed under § 700.11(a)(1) might result in few or no reviewers for a given application possessing demonstrated expertise in the subject of the competition (§ 700.11(a)(1)(i)). One of these commenters also felt that each group of reviewers for a given application should include at least one reviewer with "in-depth knowledge of policy and practice in the field of education" (§ 700.11(a)(1)(ii)), and at least one reviewer with "in-depth knowledge of theoretical perspectives or methodological approaches relevant to the subject of the competition" (§ 700.11(a)(1)(iii)). Another commenter felt that all reviewers for research projects should possess technical expertise regarding the theoretical and methodological aspects of the grant applications.

Discussion: The Secretary believes it is important for all reviewers to possess each of the qualifications in § 700.11(a)(1). The Board agreed that it is important for all reviewers to possess each of the qualifications in § 700.11(a)(1) but recommended that § 700.11(a)(1)(ii) be modified to allow a reviewer to be deemed qualified on the basis of in-depth knowledge of policy "or" practice in the field of education rather than both.

Changes: The Secretary has revised § 700.11(a)(1) to require each reviewer to possess each of the qualifications of (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) and replaced the word "and" in (a)(1)(ii) with the word "or".

Comments: One commenter expressed concern that the word "relevant" in § 700.11(a)(1)(i) was inadequate for specifying that reviewers have direct expertise in the topic area of grant applications they review.

Discussion: The Secretary agrees with this commenter.

Changes: The Secretary replaced the words "relevant to the subject area" with the words "in the subject area" in § 700.11(a)(1)(i) and also in § 700.11(a)(1)(iii).

Convening Reviewers to Discuss Unsolicited Applications (§ 700.21)

Comments: One commenter suggested substituting the word "may" for the word "will" in § 700.21(c) so as not to require the convening of reviewers in all instances. The commenter believed that it may not be necessary to convene reviewers to discuss the strengths and weaknesses of unsolicited applications.

Discussion: The Secretary believes that discussions of each application's strengths and weaknesses allows reviewers to share perspectives and provide a higher quality of review. Therefore, the Secretary believes that such discussions should, in general, be required. However, the Secretary agrees that in the case of unsolicited applications, it may not be necessary to convene reviewers.

Changes: The Secretary has added a new § 700.21(c)(2), which allows the Secretary to use discretion in determining whether to convene reviewers of unsolicited applications.

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Comments: One commenter felt that it was important that applicants receive the written comments regarding the strengths and weaknesses of their applications at the same time as the applicants are notified of acceptance or rejection. Another commenter recommended that the OERI standards address the issue of OERI's communicating the results of the competition to the applicants and the larger community.

Discussion: The Secretary recently modified Department procedures to provide both successful and unsuccessful applicants earlier notification of funding decisions. In most cases, reviewer comments accompany these notifications. However, particularly for competitions that generate large numbers of applications, reviewer comments are sent at a later date so that this early notification of funding decisions need not be delayed. The Secretary routinely issues press releases to inform the public of the results of each competition.

Changes: None.

Evaluating Grant and Cooperative Agreement Applications and Contract Proposals (§ 700.21 and § 700.22)

Comments: One commenter stated that it was not clear that the Secretary will be constrained or informed by the results of the evaluations carried out by the peer reviewers. The commenter recommended changes to clarify that: (1) Each reviewer will provide a recommendation to fund or not to fund each application, accompanied by a numerical rating of the application; and (2) the Secretary will rely on numerical ratings given by the peer reviewers in rank ordering the applications.

Discussion: The Secretary agrees that § 700.21(e) should be revised to clarify that the Secretary prepares a rank order based solely on the peer reviewers' ratings. However, the Secretary believes that, in selecting applications for award, he must consider factors in addition to the applicants' rankings and the funding recommendations of the peer reviewers. These other factors, specified in § 700.40, include performance of the applicant under a prior award, the amount of funds available for the competition, and any other information relevant to a priority or other statutory or regulatory requirement applicable to the selection of applications for new awards.

Changes: The Secretary has revised § 700.21(e) to clarify that the rank order is based solely on the peer reviewers' ratings for each application.

Comments: One commenter pointed out that § 700.22(d), regarding the evaluation of contract proposals, enables reviewers to assign proposals to the category "capable of being made acceptable." The commenter recommended that a similar category be added to § 700.21(d), relating to the evaluation of grants and cooperative agreements. The commenter believes that such a change could allow applicants an opportunity to fix minor problems in otherwise outstanding grant applications and still be eligible for funding.

Discussion: The Federal Acquisition Regulations, which govern the Federal government's contract procurements expressly recommend the establishment of a category "capable of being made acceptable." In that grant competitions are held to determine which applicants are to receive the benefit of Federal financial assistance for the activities applicants propose, rather than to determine which applicant or applicants will be contracted to provide services according to government specifications, fairness would dictate that if one grant applicant is allowed to revise its application, all other grant competitors should be provided the same opportunity. In addition, grant competitions typically generate many more applications than do contract competitions. There are often many more highly rated applicants than there are funds available for awards, and so there is no need to allow competitors a second chance to make their applications fundable. As a practical matter, applications that are truly outstanding, but have minor problems, are likely to be rated highly, with the minor problems addressed during negotiation of the grant award. The Board discussed the issue raised by this commenter. The Board was concerned that reviewers of proposals for contracts had three categories in which they could place contract proposals while reviewers of grant and cooperative agreement applications only had two categories. The Board recommended that a third category be added under § 700.21(d) that would allow reviewers to distinguish between projects that they would recommend for funding and those that they would highly recommend.

Changes: The Secretary has added a new category of "highly recommended for funding" under § 700.21(d).

Comment: After consultation with the Board, the Secretary has determined that the evaluation criteria related to prior performance of applicants under previously funded grants or cooperative agreements (§ 700.30(e)(3)(ii)(D) and § 700.30(e)(4)(ii)(E)) would require applicants to provide that information for evaluation by the peer reviewers. This information is already available to the Secretary and will be another factor considered by the Secretary in making award decisions under § 700.40(a)(3).

Discussion: The evaluation criteria under § 700.30(e)(3)(ii)(D) and § 700.30(e)(4)(ii)(E) duplicate the factors in § 700.40(a)(3) and thus impose an unnecessary burden on applicants.

Changes: § 700.30(e)(3)(ii)(D) and § 700.30(e)(4)(ii)(E) are deleted.

Paperwork Reduction Act of 1980

Section 700.30 contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education submitted a copy of this section to the Office of Management and Budget (OMB) for its review, and it was approved by OMB. (44 U.S.C. 3504(h))

These regulations affect the following types of entities eligible to apply for grants and cooperative agreements: State or local governments, businesses or other for profit organizations, nonprofit institutions, and any combinations of these types of entities. The Department needs and uses the information to evaluate applications for funding.

Annual public reporting and recordkeeping burden for this collection of information is estimated to range from 15 hours for each of the approximately 750 applications expected for a field initiated study competition to 150 hours for ten or fewer applications expected for a national research center. Therefore, the actual burden will be determined by the type of project to be supported in the particular competition.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

Based on the response to the proposed regulations and on its own review, the Department has determined that the regulations in this document do not require transmission of information that

is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 700

Education, Educational research, Elementary and secondary education, Government contracts, Grant programs—education, Libraries, Reporting and recordkeeping requirements.

Dated: September 11, 1995.

Richard W. Riley,

Secretary of Education.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

(Catalog of Federal Domestic Assistance Number does not apply.)

The Secretary amends Chapter VII of Title 34 of the Code of Federal Regulations by adding a new Part 700 to read as follows:

PART 700—STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI)—EVALUATION OF APPLICATIONS FOR GRANTS AND COOPERATIVE AGREEMENTS AND PROPOSALS FOR CONTRACTS

Subpart A—General

Sec.

700.1 What is the purpose of these standards?
700.2 What activities must be governed by these standards?
700.3 What additional activities may be governed by these standards?
700.4 What definitions apply?
700.5 What are the processes of open competition?

Subpart B—Selection of Peer Reviewers

700.10 When is the peer review process used?
700.11 Who may serve as peer reviewers?
700.12 What constitutes a conflict of interest for grants and cooperative agreements?
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Subpart C—The Peer Review Process

700.20 How many peer reviewers will be used?
700.21 How are applications for grants and cooperative agreements evaluated?
700.22 How are proposals for contracts evaluated?

Subpart D—Evaluation Criteria

700.30 What evaluation criteria are used for grants and cooperative agreements?
700.31 What additional evaluation criteria shall be used for grants and cooperative agreements?
700.32 What evaluation criteria shall be used for contracts?

Subpart E—Selection for Award

700.40 How are grant and cooperative agreement applications selected for award?
700.41 How are contract proposals selected for award?

Authority: 20 U.S.C. 6011(i).

Subpart A—General

§ 700.1 What is the purpose of these standards?

(a) The standards in this part implement section 912(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) These standards are intended to ensure that activities carried out by the Office of Educational Research and Improvement (the Office) meet the highest standards of professional excellence.

(Authority: 20 U.S.C. 6011(i)(1))

§ 700.2 What activities must be governed by these standards?

(a) The standards in this part are binding on all activities carried out by the Office using funds appropriated under section 912(m) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) Activities carried out with funds appropriated under section 912(m) of the Act include activities carried out by the following entities or programs:

(1) The National Research Institutes.

(2) The Office of Reform Assistance and Dissemination.

(3) The Educational Resources Information Center Clearinghouses.

(4) The Regional Educational Laboratories.

(5) The Teacher Research Dissemination Demonstration Program.

(6) The Goals 2000 Community Partnerships Program.

(7) The National Educational Research Policy and Priorities Board.

(Authority: 20 U.S.C. 6011(i)(1))

§ 700.3 What additional activities may be governed by these standards?

(a) The Secretary may elect to apply the standards in this part to activities carried out by the Department using funds appropriated under an authority other than section 912(m) of the Act.

(b)(1) If the Secretary elects to apply these standards to a competition for new grant or cooperative agreement awards, the Secretary announces, in a notice published in the **Federal Register**, the extent to which these standards are applicable to the competition.

(2) If the Secretary elects to apply these standards to a solicitation for a contract award, the Secretary announces in the request for proposals the extent to which these standards are applicable to the solicitation.

(Authority: 20 U.S.C. 6011(i)

§ 700.4 What definitions apply?

(a) *Definitions in the Educational Research, Development, Dissemination, and Improvement Act of 1994.* The following terms used in this part are defined in 20 U.S.C. 6011(l):

Development
Dissemination
Educational Research
Office
National Research Institute
Technical Assistance

(b) *Definitions in Education Department General Administrative Regulations.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
Grant
Project
Secretary

(c) *Definitions in the Federal Acquisition Regulation.* The following terms used in this part are defined in 48 CFR Chapter 1:

Contracting Officer
Employee of an Agency
Proposal
Solicitation

(d) *Other definitions.* The following definitions also apply to this part:

Act means the Educational Research, Development, Dissemination, and Improvement Act of 1994 (Title IX of Pub. L. 103–227, 108 Stat. 212).

EDAR means the Education Department Acquisition Regulation, 48 CFR Chapter 34.

EDGAR means the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85 and 86. *FAR* means the Federal Acquisition Regulation, 48 CFR Chapter 1.

(Authority: 20 U.S.C. 6011)

§ 700.5 What are the processes of open competition?

The Secretary uses a process of open competition in awarding or entering into all grants, cooperative agreements, and contracts governed by these standards. The processes of open competition are the following:

(a) For all new awards for grants and cooperative agreements, the Secretary will make awards pursuant to the provisions of EDGAR with the exception of the provisions in 34 CFR 75.100(c)(5), 75.200(b)(3), (b)(5), 75.210, and 75.217(b)(1), (b)(2), (c), and (d); and

(b) For contracts, the Department will conduct acquisitions pursuant to this part in accordance with the requirements of the Competition in Contracting Act, 41 U.S.C. 253, and the FAR.

(Authority: 20 U.S.C. 6011(i)(2); 41 U.S.C. 253)

Subpart B—Selection of Peer Reviewers

§ 700.10 When is the peer review process used?

The Secretary uses a peer review process—

(a) To review and evaluate all applications for grants and cooperative agreements and proposals for those contracts that exceed $100,000;

(b) To review and designate exemplary and promising programs in accordance with section 941(d) of the Act; and

(c) To evaluate and assess the performance of all recipients of grants from and cooperative agreements and contracts with the Office.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.11 Who may serve as peer reviewers?

(a) An individual may serve as a peer reviewer for purposes of reviewing and evaluating applications for new awards for grants and cooperative agreements and contract proposals if the individual—

(1) Possesses the following qualifications:

(i) Demonstrated expertise, including training and experience, in the subject area of the competition.

(ii) In-depth knowledge of policy or practice in the field of education.

(iii) In-depth knowledge of theoretical perspectives or methodological approaches in the subject area of the competition; and

(2) Does not have a conflict of interest, as determined in accordance with § 700.12.

(b) For each competition for new awards for grants and cooperative agreements—

(i) Department staff may not serve as peer reviewers except in exceptional circumstances as determined by the Secretary; and

(ii) The majority of reviewers may be persons not employed by the Federal Government.

(2) For each review of an unsolicited grant or cooperative agreement application—

(i) Department employees may assist the Secretary in making an initial determination under 34 CFR 75.222(b); and

(ii) Department employees may not serve as peer reviewers in accordance with 34 CFR 75.222(c).

(c) To the extent feasible, the Secretary selects peer reviewers for each competition who represent a broad range of perspectives.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.12 What constitutes a conflict of interest for grants and cooperative agreements?

(a) Peer reviewers for grants and cooperative agreements are considered employees of the Department for the purposes of conflicts of interest analysis.

(b) As employees of the Department, peer reviewers are subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department's policies used to implement those provisions.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.13 What constitutes a conflict of interest for contracts.

(a) Peer reviewers for contract proposals are considered employees of the Department in accordance with FAR, 48 CFR 3.104–4(h)(2).

(b) As employees of the Department, peer reviewers are subject to the provisions of the FAR, 48 CFR Part 3 Improper Business Practices and Personal Conflict of Interest.

(Authority: 41 U.S.C. 423)

Subpart C—The Peer Review Process

§ 700.20 How many peer reviewers will be used?

(a) Each application for a grant or cooperative agreement award must be reviewed and evaluated by at least three peer reviewers except—

(1) For those grant and cooperative agreement awards under $50,000, fewer than three peer reviewers may be used if the Secretary determines that adequate peer review can be obtained using fewer reviewers; and

(2) For those grant and cooperative agreement awards of more than $1,000,000, at least five reviewers must be used.

(b) Each contract proposal must be read by at least three reviewers unless the contracting officer determines that an adequate peer review can be obtained by using fewer reviewers.

(c) Before releasing contract proposals to peer reviewers outside the Federal Government, the contracting officer shall comply with FAR, 48 CFR 15.413–2(f).

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.21 How are applications for grants and cooperative agreements evaluated?

(a) Each peer reviewer must be given a number of applications to evaluate.

(b) Each peer reviewer shall—

(1) Independently evaluate each application;

(2) Evaluate and rate each application based on the reviewer's assessment of the quality of the application according to the evaluation criteria and the weights assigned to those criteria; and

(3) Support the rating for each application with concise written comments based on the reviewer's analysis of the strengths and weaknesses of the application with respect to each of the applicable evaluation criteria.

(c) (1) Except as provided in paragraph (c)(2) of this section, after each peer reviewer has evaluated and rated each application independently, those reviewers who evaluated a common set of applications are convened to discuss the strengths and weaknesses of those applications. Each reviewer may then independently reevaluate and re-rate an application with appropriate changes made to the written comments.

(2) Reviewers are not convened to discuss an unsolicited application unless the Secretary determines that discussion of the application's strengths and weaknesses is necessary.

(d) Following discussion and any reevaluation and re-rating, reviewers shall independently place each application in one of three categories, either "highly recommended for funding," "recommended for funding" or "not recommended for funding."

(e) After the peer reviewers have evaluated, rated, and made funding recommendations regarding the applications, the Secretary prepares a rank order of the applications based solely on the peer reviewers' ratings.

(Authority: 20 U.S.C. 6011(i)(2)(C))

§ 700.22 How are proposals for contracts evaluated?

(a) Each peer reviewer must be given a number of technical proposals to evaluate.

(b) Each peer reviewer shall—

(1) Independently evaluate each technical proposal;

(2) Evaluate and rate each proposal based on the reviewer's assessment of the quality of the proposal according to the technical evaluation criteria and the importance or weight assigned to those criteria; and

(3) Support the rating for each proposal with concise written comments based on the reviewer's analysis of the strengths and weaknesses of the proposal with respect to each of

the applicable technical evaluation criteria.

(c) After each peer reviewer has evaluated each proposal independently, those reviewers who evaluated a common set of proposals may be convened to discuss the strengths and weaknesses of those proposals. Each reviewer may then independently reevaluate and re-rate a proposal with appropriate changes made to the written comments.

(d) Following discussion and any reevaluation and re-rating, reviewers shall rank proposals and advise the contracting officer of each proposal's acceptability for contract award as "acceptable," "capable of being made acceptable without major modifications," or "unacceptable." Reviewers may also submit technical questions to be asked of the offeror regarding the proposal.

(Authority: 20 U.S.C. 6011(i)(2)(C))

Subpart D—Evaluation Criteria

§ 700.30 What evaluation criteria are used for grants and cooperative agreements?

(a) Except as provided in paragraph (d) of this section, the Secretary announces the applicable evaluation criteria for each competition and the assigned weights in a notice published in the **Federal Register** or in the application package.

(b) In determining the evaluation criteria to be used in each grant and cooperative agreement competition, the Secretary selects from among the evaluation criteria in paragraph (e) of this section and may select from among the specific factors listed under each criterion.

(c) The Secretary assigns relative weights to each selected criterion and factor.

(d) In determining the evaluation criteria to be used for unsolicited applications, the Secretary selects from among the evaluation criteria in paragraph (e) of this section, and may select from among the specific factors listed under each criterion, the criteria which are most appropriate to evaluate the activities proposed in the application.

(e) The Secretary establishes the following evaluation criteria:

(1) *National significance.*

(i) The Secretary considers the national significance of the proposed project.

(ii) In determining the national significance of the proposed project, the Secretary may consider one or more of the following factors:

(A) The importance of the problem or issue to be addressed.

(B) The potential contribution of the project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(C) The scope of the project.

(D) The potential for generalizing from project findings or results.

(E) The potential contribution of the project to the development and advancement of theory and knowledge in the field of study.

(F) Whether the project involves the development or demonstration of creative or innovative strategies that build on, or are alternatives to, existing strategies.

(G) The nature of the products (such as information, materials, processes, or techniques) likely to result from the project and the potential for their effective use in a variety of other settings.

(H) The extent and quality of plans for disseminating results in ways that will allow others to use the information.

(2) *Quality of the project design.*

(i) The Secretary considers the quality of the design of the proposed project.

(ii) In determining the quality of the design of the proposed project, the Secretary may consider one or more of the following factors:

(A) Whether the goals, objectives, and outcomes to be achieved by the project are clearly specified and measurable.

(B) Whether there is a conceptual framework underlying the proposed activities and the quality of that framework.

(C) Whether the proposed activities constitute a coherent, sustained program of research and development in the field, including a substantial addition to an ongoing line of inquiry.

(D) Whether a specific research design has been proposed, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

(E) The extent to which the research design includes a thorough, high-quality review of the relevant literature, a high-quality plan for research activities, and the use of appropriate theoretical and methodological tools, including those of a variety of disciplines, where appropriate.

(F) The quality of the demonstration design and procedures for documenting project activities and results.

(G) The extent to which development efforts include iterative testing of products and adequate quality controls.

(H) The likelihood that the design of the project will successfully address the intended, demonstrated educational need or needs.

(I) How well and innovatively the project addresses statutory purposes, requirements, and any priority or priorities announced for the program.

(J) The quality of the plan for evaluating the functioning and impact of the project, including the objectivity of the evaluation and the extent to which the methods of evaluation are appropriate to the goals, objectives, and outcomes of the project.

(3) *Quality and potential contributions of personnel.*

(i) The Secretary considers the quality and potential contributions of personnel for the proposed project.

(ii) In determining the quality and potential contributions of personnel for the proposed project, the Secretary may consider one or more of the following factors:

(A) The qualifications, including training and experience, of the project director or principal investigator.

(B) The qualifications, including training and experience, of key project personnel.

(C) The qualifications, including training and experience, of proposed consultants or subcontractors.

(4) *Adequacy of resources.*

(i) The Secretary considers the adequacy of resources for the proposed project.

(ii) In determining the adequacy of resources for the proposed project, the Secretary may consider one or more of the following factors:

(A) The adequacy of support from the lead applicant organization.

(B) The relevance and commitment of each partner in the project to the implementation and success of the project.

(C) Whether the budget is adequate to support the project.

(D) Whether the costs are reasonable in relation to the objectives, design, and potential significance of the project.

(E) The potential for continued support of the project after federal funding ends.

(5) *Quality of the management plan.*

(i) The Secretary considers the quality of the management plan of the proposed project.

(ii) In determining the quality of the management plan of a proposed project, the Secretary may consider one or more of the following factors:

(A) The adequacy of the management plan to achieve the objectives of the project, including the specification of staff responsibility, timelines, and benchmarks for accomplishing project tasks.

(B) The adequacy of plans for ensuring high-quality products and services.

(C) The adequacy of plans for ensuring continuous improvement in the operation of the project.

(D) Whether time commitments of the project director or principal investigator and other key personnel are appropriate and adequate to meet project objectives.

(E) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the project, including those of parents and teachers, where appropriate.

(F) How the applicant will ensure that persons who are otherwise eligible to participate in the project are selected without regard to race, color, national origin, gender, age, or disability.

(G) The adequacy of plans for widespread dissemination of project results and products in ways that will assist others to use the information.

(Approved by the Office of Management and Budget under control number 1850–0723)

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

§ 700.31 What additional evaluation criteria shall be used for grants and cooperative agreements?

In addition to the evaluation criteria established in § 700.30(e), the Secretary uses criteria or factors specified in the applicable program statute to evaluate applications for grants and cooperative agreements.

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

§ 700.32 What evaluation criteria shall be used for contracts?

(a) The evaluation criteria to be considered in the technical evaluation of contract proposals are contained in the FAR at 48 CFR 15.605. The evaluation criteria that apply to an acquisition and the relative importance of those factors are within the broad discretion of agency acquisition officials.

(b) At a minimum, the evaluation criteria to be considered must include cost or price and quality. Evaluation factors related to quality are called technical evaluation criteria.

(c) Technical evaluation criteria may include, but are not limited to, the following:

(1) Technical excellence.
(2) Management capability.
(3) Personnel qualifications.
(4) Prior experience.
(5) Past performance.
(6) Schedule compliance.

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

Subpart E—Selection for Award

§ 700.40 How are grant and cooperative agreement applications selected for award?

(a) The Secretary determines the order in which applications will be selected for grants and cooperative agreement awards. The Secretary considers the following in making these determinations:

(1) An applicant's ranking.

(2) Recommendations of the peer reviewers with regard to funding or not funding.

(3) Information concerning an applicant's performance and use of funds under a previous Federal award.

(4) Amount of funds available for the competition.

(5) Any other information relevant to a priority or other statutory or regulatory requirement applicable to the selection of applications for new awards.

(b) In the case of unsolicited applications, the Secretary uses the procedures in EDGAR (34 CFR 75.222(d) and (e)).

(Authority: 20 U.S.C. 6022(i)(2)(D)(i))

§ 700.41 How are contract proposals selected for award?

Following evaluation of the proposals, the contracting officer shall select for award the offeror whose proposal is most advantageous to the Government considering cost or price and the other factors included in the solicitation.

(Authority: 20 U.S.C. 6011(i)(2)(D)(i))

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Appendix B

Part II—Department of Education
34 CFR Part 701

Office of Educational Research and Improvement (OERI) Conduct and Activities Evaluation Standards; Designation of Exemplary and Promising Programs; Final Rule

federal register

Monday
November 17, 1997

Part II

Department of Education

34 CFR Part 701

Office of Educational Research and Improvement (OERI) Conduct and Activities Evaluation Standards; Designation of Exemplary and Promising Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 701

RIN 1850–AA52

Standards for Conduct and Evaluation of Activities Carried out by the Office of Educational Research and Improvement (OERI)—Designation of Exemplary and Promising Programs

AGENCY: Department of Education.

ACTION: Final regulation.

SUMMARY: The Assistant Secretary for Educational Research and Improvement (OERI) is establishing final regulations pursuant to the "Educational Research, Development, Dissemination, and Improvement Act of 1994." The regulations are intended to provide quality assurance that programs designated by the Department of Education as either exemplary or promising have met criteria that will allow educators, professional organizations, and others to use these programs with confidence.

DATES: These regulations take effect December 17, 1997. However, affected parties do not have to comply with the information collection requirement in § 701.4 until the Department of Education publishes in the **Federal Register** notification of the compliance date and the control number assigned by the Office of Management and Budget (OMB) to this information collection requirement. Publication of the control number notifies the public that OMB has approved this information collection requirement under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Stephen O'Brien, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 502B, Washington, D.C. Telephone: (202) 219–2141. Internet: (Steve_O'Brien@ed.gov). Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On March 31, 1994, President Clinton signed Public Law 103–227, which includes Title IX, the Educational Research, Development, Dissemination, and Improvement Act of 1994 (the Act). The Act restructured OERI and provided it with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students.

The Act directed the Assistant Secretary to develop, in consultation with the National Educational Research Policy and Priorities Board (the Board), the highest standards of professional excellence necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the OERI. The legislation requires that the standards be developed in three phases.

In the first phase, standards were promulgated to establish the peer review process and evaluation criteria to be used for reviewing applications for grants and cooperative agreements and proposals for contracts. The Department published final regulations setting out these standards on September 14, 1995 (60 FR 47808). The regulations in this announcement address the second phase of development by establishing the criteria for panels to use in reviewing potentially exemplary and promising educational programs. The Assistant Secretary will later publish proposed regulations for phase three of the standards, which will govern how OERI evaluates performance of its recipients of grants, contracts, and cooperative agreements.

The OERI legislation requires that expert panels be established to review educational programs submitted by individuals or organizations. The legislation also provides that the Secretary may identify educational programs for the panels to review. The statute requires the panels to recommend to the Secretary those programs that should be designated as exemplary or promising and disseminated through the Department's National Education Dissemination System. The law requires that each panel consist of appropriately qualified experts and practitioners and requires the Secretary to develop standards that describe the procedures the panels will use in reviewing the educational programs. Section 941(a)(3) of the law broadly defines educational programs to include educational polices, research findings, practices, and products. Educational programs may range in size and complexity from an individual instructional program—such as an elementary school science program—to a comprehensive reform initiative involving multiple goals and participants. Programs at all levels of education—preschool, elementary, secondary, and postsecondary—are eligible for consideration.

In determining whether an educational program should be recommended as exemplary or promising, each panel is required by the Act to consider: (a) Whether, based on empirical data, the program is effective and should be designated as exemplary or (b) whether there is sufficient evidence to demonstrate that the program shows promise for improving student achievement and should be designated as promising. The Act expressly states that a panel shall not eliminate a program from consideration based on the lack of one type of supporting data such as test scores.

The evaluation process set forth in the final regulations will ensure that programs disseminated by the Department are high-quality, research-based programs that have provided evidence indicating they have improved teaching, learning, or both, or has demonstrated other worthy educational performance outcomes. The Department's dissemination system is designed to make information about these promising and exemplary programs available to the public as quickly as possible. The system will enable the Department to respond to all forms of requests for information and assistance, and to support the applications of research and best practice. The system will use electronic networking and the capabilities of:

—National Research Institutes;
—Educational Resources Information Center (ERIC);
—Regional Educational Laboratories;
—Department-supported dissemination and technical assistance providers;
—National Library of Education;
—Eisenhower Regional Consortia and Clearinghouse, and
—Other public and private nonprofit entities, including education associations and networks.

Until recently, the Department validated exemplary programs through its Program Effectiveness Panel (PEP) and disseminated them through the National Diffusion Network (NDN). Since this program no longer exists, with the adoption of these standards the Department will evaluate and disseminate promising educational programs in addition to exemplary programs. The Department will also work in partnership with constituency groups who have expertise in the specific topic areas represented by the expert panels to develop coordinated procedures to maximize their involvement in this work.

On June 3, 1996, the Secretary published a notice of proposed rulemaking (NPRM) for this part in the

Federal Register (61 FR 27990–27993). These final regulations contain three major changes from the NPRM. These changes are fully explained in the "Analysis of Comments and Changes" elsewhere in this preamble. The changes pertain to the standing panel; the distinction between "promising" and "exemplary"; and the factors listed under the criteria expert panels will use to evaluate programs.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, seven parties submitted comments on the proposed regulations. This included comments from individual members of two pilot panels (math/science and gender equity) that were appointed by the Secretary to field test the expert panel process. In addition to the public comment, comments from the Board's Subcommittee on Standards are addressed as required by the legislation. The full Board approved the final regulations at a meeting on September 26, 1997. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject with appropriate sections of the regulations referenced in parentheses. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Eligibility (§ 701.3)

Comments: One commenter asked for clarification on who is eligible to submit educational programs for designation as promising or exemplary. Specifically, this commenter asked whether federally-funded entities, such as the Regional Laboratories, will be required to go through this process; whether local agencies that receive Federal funding through states, such as under Title I of the Elementary and Secondary Education Act (ESEA), may submit programs on their own; whether sponsors need to be invited to submit or may submit on their own initiative; and whether for-profit entities may submit.

Discussion: The law provides that "individuals" or "organizations" may submit educational programs for review. Since the law is silent on the specific nature of the organizations, the Secretary believes that for-profit agencies would be eligible to submit programs for review. With respect to the OERI-funded Regional Educational Laboratories, the law provides that the Secretary may identify those programs for panel review. In addition, the Secretary believes that the Laboratories could submit one or more of their programs on their own initiative. The question of whether local agencies that receive Federal funding through a State or Federal entity, such as under Title I of the ESEA, can submit on their own or must go through their funding agency, will be addressed in administrative guidance.

Changes: None.

Content of Submissions (§ 701.4)

Comments: Three commenters made suggestions about this section. Two commenters believed that requiring funding and staffing information was burdensome and not germane to the designation of a program as promising or exemplary. One commenter believed that this section should require program sponsors to submit specific materials related to content and methods. Another commenter believed that this section should include the requirement that the program include evidence of sustainability of improvement with targeted student populations.

Discussion: The Secretary believes that funding and staffing information should be included to help determine whether an educational program should be recommended as either exemplary or promising. The Secretary agrees that sponsors should be required to submit information or materials specific to content and methods, as available and appropriate. The Secretary believes that the evidence of sustainability of student improvement should be evaluated by peer reviewers in accordance with § 701.22.

Changes: Section 701.4(b)(7) has been renumbered as § 701.4(b)(8) and a new § 701.4(b)(7) has been added to include a provision for specific materials relevant to content and methods.

Procedures for Submitting Educational Programs (New § 701.5)

Comments: One commenter believed that the regulations should contain more specificity about the procedure for submitting programs to the expert panels. This commenter requested specifics on who receives the submissions and whether they may be submitted at any time or only on specific dates.

Discussion: The Secretary agrees that the general submission procedures should be included in regulations. A sponsor seeking the exemplary or promising designation for its educational program may submit its program at any time for consideration to the Assistant Secretary, who will assign the submitted program to the appropriate panel for review. The individual expert panels will set appropriate timelines for program submissions. In addition, the Assistant Secretary will periodically establish and announce in the **Federal Register** specific topic areas of high priority Sponsors of educational programs in these areas will be invited to submit them for consideration.

Changes: A new § 701.5 has been added to include general procedures for submitting educational programs for review by an expert panel.

Establishment of Panels (§ 701.10)

Comments: The Board's Subcommittee on Standards recommended a change to the expert panel system. The Subcommittee thought that the structure of having members of the expert panels drawn from a separate standing panel of educational experts was an unwieldy, overly-complicated structure. The Board recommended that the expert panels be formed separately from a standing panel, which would instead provide an administrative oversight and monitoring function for the expert panels.

Discussion: The Secretary agrees that the expert panel should be formed separately from a standing panel. The Secretary will determine the feasibility of establishing a separate standing panel for the oversight and monitoring functions referred to by the Board—functions which are administrative in nature and could also be performed by OERI staff. Elimination of a reference to a standing panel in the regulations would not alter the composition and function of the expert panels as outlined in the NPRM.

Changes: Section 701.10(a) has been removed, § 701.10(b) has been revised, § 701.11 has been removed, § 701.12(a) has been revised, and § 701.12 has also been renumbered as § 701.11.

Panel Membership (§§ 701.11 and 701.12)

Comments: One commenter observed that §§ 701.11 and 701.12 in the NPRM did not explicitly state that those serving on the panels would represent both the community of practice and that of research. One commenter believed that each panel should include one or more members with evaluation expertise in order to help evaluate evidence of effectiveness.

Discussion: The Secretary agrees with these comments.

Changes: A sentence has been added at the end of the renumbered § 701.11(a) (formerly § 701.12(a)) stating that the membership of the expert panels will represent both the community of practice and the community of research. Additionally, §§ 701.11(b)(3) and

701.11(b)(4) have been renumbered as §§ 701.11(b)(4) and 701.11(b)(5), respectively; and a new provision for § 701.11(b)(3) has been added to include the selection of at least one individual with expertise in evaluating educational programs.

Difference Between Promising and Exemplary Programs (§ 701.21)

Comments: Five comments were received on the distinction between promising and exemplary programs. As proposed in § 701.21, the distinction was based upon the generalizability of the educational programs. Promising programs had to meet each of the criteria of educational effectiveness in § 701.22 (success, quality, educational significance, and usefulness to others) with respect to only one "context or population." Exemplary programs had to meet each of the criteria "with respect to multiple contexts or multiple populations."

Two commenters believed that the distinction should stay the way it was in the NPRM, although one of those suggested some clarifying language. However, three commenters questioned the distinction on the basis that it was too narrowly and artificially drawn and did not reflect the commonly understood meaning of the words "promising" and "exemplary." In this regard, one commenter believed that promising programs should not have to meet every criterion in § 701.22 at the same level as exemplary programs. Two commenters believed that promising programs should have to meet the criteria at the same level as exemplary, but that the evidence required of promising programs should be less stringent and that exemplary programs should be held to a higher standard of evidence.

Discussion: The Secretary agrees with those commenters who questioned the proposed distinction and advised OERI to give a more common sense meaning to the terms "promising" and "exemplary." The Secretary believes that the distinction between promising and exemplary programs specified in legislation is sufficient to cover these concerns. The Secretary relies upon the expert judgment of the expert panel reviewers in determining the nature and weight of evidence necessary to designate a program as either promising or exemplary, and in applying the criteria listed in § 701.22 in making this determination.

Changes: A revision has been made to the distinction between "promising" and "exemplary."

Criteria (§ 701.22)

Comments: Five commenters provided comments on this section and suggested revisions to either the wording of the criteria or to the content of the factors listed under each criterion or both. These comments included comments from one member of the math/science pilot panel and three members of the gender equity pilot panel. Although the math/science panel member did provide comments specific to the proposed criteria and factors, the consensus of this panel was that the expert panel process would be better served if each panel developed its own factors specific to the content or discipline or both under review by the individual panel. One commenter suggested that the word "replicability" would better capture the concept for the criterion entitled "usefulness to others." In addition, OERI's Board (The Subcommittee on Standards) thought that the regulations should be as simple as possible and should give the expert panels as much discretion as possible in evaluating programs submitted for review.

Discussion: In addition to the math/science and gender equity panels, the Secretary will establish pilot panels in technology and early reading in the next year. The Secretary has determined that until the work of all four pilot panels is concluded, the regulation should retain only the four criteria outlined in the NPRM in § 701.22 and allow each panel the flexibility to establish its own individual factors under each criterion that are specific to its content or discipline. The fact that the comments from the public suggested various changes to the factors underscores the desirability of this approach. While the final regulations will therefore no longer require the expert panels to apply the factors listed in the NPRM, the Secretary encourages each panel to look at these factors as suggested examples. The Secretary will review the factors developed by all of the panels to see if the criteria set forth in the final regulations need to be modified.

Changes: The factors specified under each of the four criteria have been eliminated and the criterion, "usefulness to others" has been changed to "replicability."

Assessment of Educational Impact

In the NPRM the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the NPRM and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 701

Education, Educational research, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: November 11, 1997.

Ricky T. Takai,

Acting Assistant Secretary for Educational Research and Improvement.

The Secretary amends chapter VII of title 34 of the Code of Federal Regulations by adding a new part 701 to read as follows:

PART 701—STANDARDS FOR CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI)—DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS

Subpart A—General

Sec.

701.1 What is the purpose of these standards?
701.2 What definitions apply?
701.3 Who is eligible to submit an educational program for review?

701.4 What must a program sponsor submit for review?
701.5 What are the procedures for submitting an educational program for review by an expert panel?

Subpart B—Selection of Panel Members

701.10 How are panels established?
701.11 How is the membership of expert panels determined?

Subpart C—The Expert Panel Review Process

701.20 How does an expert panel evaluate programs?
701.21 What is the difference between an exemplary and a promising program?
701.22 What criteria are used to evaluate programs for exemplary or promising designation?

Authority: 20 U.S.C. 6011(i), unless otherwise noted.

Subpart A—General

§ 701.1 What is the purpose of these standards?

(a) The standards in this part implement section 941(d) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) These standards are intended to provide quality assurance that educational programs designated by the U.S. Department of Education as either exemplary or promising have met criteria that will allow educators, professional organizations, and others to use these programs with confidence.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.2 What definitions apply?

The following definitions apply to this part:

Assistant Secretary means the Assistant Secretary for the Office of Educational Research and Improvement.

Educational programs mean educational policies, research findings, practices, and products.

Program sponsor means a party submitting an educational program for designation by the Secretary as either promising or exemplary.

Secretary means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.3 Who is eligible to submit an educational program for review?

Any public or private agency, organization or institution, or an individual may submit an educational program for review.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.4 What must a program sponsor submit for review?

(a) To have an educational program considered for designation as exemplary or promising, a sponsor must submit to the Secretary a description of the program, program materials, and a discussion of the program that is responsive to the criteria in § 701.22.

(b) Information submitted must include, to the extent relevant to the particular program,—

(1) A program abstract of 250 words or less;

(2) A description of the salient features of the program;

(3) A description of the program's philosophy and history;

(4) Site information, including demographics;

(5) A description of evaluation results;

(6) Funding and staffing information;

(7) Specific materials relevant to content and methods, as appropriate; and

(8) Organization name, address, telephone and fax numbers, e-mail address (if available), and contact person.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.5 What are the procedures for submitting an educational program for review by an expert panel?

(a) An applicant seeking the exemplary or promising designation for its educational program may submit its program at any time for consideration to the Assistant Secretary, who will assign the submitted program to the appropriate expert panel for review.

(b) The Assistant Secretary will periodically establish and announce in the **Federal Register** specific topic areas of high priority. Sponsors of educational programs in these areas will be invited to submit their programs for consideration.

(c) The individual expert panels will set appropriate timelines for reviewing program submissions.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

Subpart B—Selection of Panel Members

§ 701.10 How are panels established?

The Assistant Secretary selects individuals, based on their areas of expertise, to serve on expert panels in specific topic areas for the purpose of reviewing and evaluating educational programs and recommending, to the Secretary, those programs that should be designated as exemplary or promising.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.11 How is the membership of expert panels determined?

(a) For the review of each program or group of programs, the Assistant Secretary establishes an expert panel. The membership of the expert panels will represent both the community of practice and the community of research.

(b) In establishing the membership of each expert panel, the Assistant Secretary—

(1) Selects individuals who have in-depth knowledge of the subject area or content of the program or group of programs to be evaluated;

(2) Selects at least one current teacher, principal, or other school-based or community-based professional;

(3) Selects at least one individual with expertise in evaluating educational programs;

(4) Ensures that no more than one-third of the panel members are employees of the Federal Government; and

(5) Ensures that each panel member does not have a conflict of interest, as determined in accordance with paragraph (c) of this section, with respect to any educational program the panel member is asked to review.

(c) Panel members are considered employees of the U.S. Department for the purposes of conflicts of interest analysis and are subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department's policies used to implement those provisions.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

Subpart C—The Expert Panel Review Process

§ 701.20 How does an expert panel evaluate programs?

(a) Each panel member shall—

(1) Independently review each program based on the criteria in § 701.22;

(2) Provide written comments based on an analysis of the strengths and weaknesses of the program according to the criteria;

(3) Participate in site visits or other verification activities, if appropriate; and

(4) Participate in a meeting of the expert panel, if appropriate, to discuss the reviews.

(b) A panel may not eliminate an educational program from consideration based solely on the fact that the program does not have one specific type of supporting data, such as test scores.

(c) Each expert panel shall make a recommendation to the Secretary as to

whether the program is exemplary, promising, or neither.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.21 What is the difference between an exemplary and a promising program?

(a) In determining whether an educational program should be recommended as exemplary or promising, the panel shall consider—

(1) Whether, based on empirical data, the program is effective and should be designated as exemplary; or

(2) Whether there is sufficient evidence to demonstrate that the program shows promise for improving student achievement and should be designated as promising.

(b) The Secretary relies upon the judgment and expertise of peer reviewers, as established in § 701.11, to determine the nature and extent of evidence required to distinguish between promising and exemplary programs and to apply the four criteria established in § 701.22, and their own individual factors under each criterion in making this determination.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.22 What criteria are used to evaluate programs for exemplary or promising designation?

The Secretary establishes the following evaluation criteria for expert panels to use in determining whether an educational program should be recommended as exemplary, promising, or neither:

(a) Evidence of success.

(b) Quality of the program.

(c) Educational significance.

(d) Replicability.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

[FR Doc. 97–30051 Filed 11–14–97; 8:45 am]

BILLING CODE 4000–01–P

Appendix C

Part VII—Department of Education
34 CFR Part 702

Standards for Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of the Performance of Recipients of Grants, Cooperative Agreements, and Contracts; Final Rule

federal register

Tuesday
October 27, 1998

Part VII

Department of Education

34 CFR Part 702

Standards for Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of the Performance of Recipients of Grants, Cooperative Agreements, and Contracts; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 702

RIN 1850–AA54

Standards for Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of the Performance of Recipients of Grants, Cooperative Agreements, and Contracts

AGENCY: Office of Educational Research and Improvement, Department of Education.

ACTION: Final regulations.

SUMMARY: The Assistant Secretary establishes regulations pursuant to OERI's authorizing legislation, the Educational Research, Development, Dissemination, and Improvement Act of 1994. The major purpose of these standards is to ensure that the research, development, and dissemination activities carried out by the recipients of grants from and contracts and cooperative agreements with OERI meet the highest standards of professional excellence.

EFFECTIVE DATE: These regulations take effect November 27, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon Bobbitt, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 508C, Washington, D.C. Telephone: (202) 219–2126. Internet: (Sharon—Bobbitt@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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SUPPLEMENTARY INFORMATION:

Background

On March 31, 1994, President Clinton signed Pub. L. 103–227, which includes Title IX, the Educational Research, Development, Dissemination, and Improvement Act of 1994 (the Act). The Act restructured OERI and provided it with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students.

Statutory Requirements

The Act directed the Assistant Secretary to develop, in consultation with the National Educational Research Policy and Priorities Board (the Board), such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by OERI to ensure that these activities meet the highest standards of professional excellence. The Board is responsible for reviewing and approving the standards. The legislation requires that the standards be developed in three phases.

In the first phase, standards were created and promulgated to establish the peer review process and evaluation criteria to be used for the review of applications for grants and cooperative agreements and proposals for contracts. The final regulations setting out these standards were published on September 14, 1995 (60 FR 47808). In the second phase, standards were created and promulgated to establish the criteria to be used in reviewing potentially exemplary and promising educational programs. The final regulations setting out these standards were published on November 17, 1997 (62 FR 61427).

In the third phase, which is the subject of these final regulations, the Act requires that OERI develop standards for evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with OERI. This evaluation must take place both during and at the conclusion of the performance of the grant, cooperative agreement, or contract, and must include the use of a system of peer review for the final assessment.

In developing the standards, the Assistant Secretary was required to review the procedures utilized by the National Institutes of Health (NIH), the National Science Foundation (NSF), and other Federal departments or agencies engaged in research and development and to solicit recommendations from research organizations and members of the general public. OERI has reviewed the procedures used to evaluate the performance of recipients of grants, contracts, or cooperative agreements by several offices within NIH and NSF, the Office of Energy Research in the Department of Energy, the Food and Drug Administration, the National Institute of Standards and Technology, the National Aeronautics and Space Administration, and the University Research Initiative of the Department of Defense. Recommendations concerning these standards have been obtained from the American Educational Research Association, the Council for Educational Development and Research, and the Organization of Research Centers.

Standards

The standards have been developed by the Assistant Secretary in consultation with the Board. These standards cover all grants, cooperative agreements, and contracts administered by OERI, ranging from the smallest purchase orders and commissioned papers to the largest research projects and research centers. The standards:

- Require at least one interim assessment as well as a final assessment of the performance of recipients of grants, cooperative agreements, and contracts.
- Establish procedures for selecting peer review panels to conduct the assessments.
- Establish procedures and criteria that the peer review panels use in conducting the assessments.
- Establish specific additional criteria that peer review panels use in conducting the assessments for National Research and Development Centers, Regional Educational Laboratories, Field-Initiated Studies, and ERIC Clearinghouses.

In an effort to fulfill the law's intention of ensuring high-quality research, development, and evaluation, OERI has developed standards in which interim and final assessments may be supplemented by a self-assessment by the recipient of a grant, cooperative, agreement, or contract. The Board and the Assistant Secretary believe that the collection and review of evidence on one's own performance is itself a useful tool for improvement.

The Government Performance and Results Act requires the establishment of performance indicators for Department activities. Information collected pursuant to those indicators will be considered, as appropriate, in the evaluation of individual recipients.

On February 24, 1998, the Assistant Secretary published a notice of proposed rulemaking (NPRM) for these standards in the **Federal Register** (63 FR 9393). These final regulations contain four major changes from the NPRM. These changes are fully explained in the "Analysis of Comments and Changes" elsewhere in this preamble. The major changes pertain to clarification of the purpose of the regulation, how OERI determines the number of interim assessments necessary, the role of Department of Education staff in the assessments, and the use of interim assessments as a source of information for the final assessment.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, four parties

submitted comments on the proposed regulations. In addition to the public comment, comments from the Board's Subcommittee on Standards are addressed as required by the legislation. The full Board approved the final regulations at a meeting on September 18, 1998. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject with appropriate sections of the regulations referenced in parentheses. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Purpose (§ 702.1)

Comments: Three commenters suggested that the purpose of the standards be clarified. One commenter suggested that the standards themselves cannot ensure the highest standards of professional excellence. Another commenter asked specifically whether the purpose for conducting assessments was to make decisions about future funding or to provide a system for monitoring and enhancing current and future projects.

Discussion: The Secretary agrees that the purpose of the standards should be clarified to go beyond their stated statutory purpose, which is to "ensure the highest standards of professional excellence," to include the objectives of continuously improving the quality of funded activities and of considering the results as one of the factors in determining continuation funding for multi-year awards.

Changes: Section 702.1 has been modified to include a provision that the purpose of the standards is to provide feedback to help improve the quality of funded activities and to provide information for consideration as continuation funding decisions are made.

Additional Activities that May be Evaluated (§ 702.3)

Comment: One commenter thought that the statement that these standards could be applied to other activities funded by the Department was too broad and should be deleted.

Discussion: The Secretary believes that this statement is necessarily broad to allow all Department programs to use these standards, when appropriate, to assess the performance of any of their funded activities without developing their own unique regulations. This statement is also consistent with the earlier standards which established the peer review process and evaluation criteria to be used for the review of applications for grants and cooperative agreements and proposals for contracts.

Changes: None.

Number of Interim Assessments (§ 702.4)

Comments: Two commenters suggested changes to this provision. One commenter suggested since there may be more than one interim assessment, that it be clear in § 702.4(d)(1). The OERI Board suggested that the requirements for a single interim assessment for total awards of $5,000,000 or less be modified to reflect total awards of $3,000,000 or less.

Discussion: In response to the comments, the Secretary now believes that considerations such as difficulty in achieving project objectives rather than the dollar levels of awards should determine whether a particular project merits more than one interim assessment. Elimination of the dollar threshold clarifies the original intent of this section which is to require that all awards receive one interim assessment. More than one interim assessment will be performed only when a recipient is having difficulty achieving project objectives as determined by the initial interim assessment or through the monitoring efforts of Department of Education staff. The Assistant Secretary will make the determination of the number of interim assessments on a case-by-case basis.

Changes: Section 702.4(b) has been modified to delete the dollar threshold and to reflect that all awards will receive at least one interim assessment. A new paragraph 702.4(c) has been added to clarify that the Assistant Secretary will require more than one interim assessment when a recipient has been identified, either in the initial interim review or through monitoring efforts of Department of Education staff, as having difficulty in achieving project objectives. Former paragraph 702.4(c) has been redesignated as § 702.4(d). Section 702.4(d)(1) has been modified to define an interim assessment as "any assessment" conducted during a recipient's period of performance.

Definitions (§ 702.5)

Comment: One commenter suggested that the terms referred to in this section include the specific definitions and not references to the OERI statute and to the Education Department General Administrative Regulations.

Discussion: The Secretary believes that providing the citations for specific terms rather than the definitions themselves keeps regulations short and concise while still cross referencing easily accessible resources for the definitions.

Changes: None.

Characteristics of Peer Reviewers (§ 702.10)

Comment: One commenter suggested that paragraph 702.10(a) "(4) knowledge of a broad range of education policies and practices;" be deleted from the list of knowledge and expertise required of peer reviewers, because it is redundant with the other criteria and is very vague.

Discussion: The Secretary believes that this criterion provides for a balance between specific program knowledge and a broader perspective of education policies and practices and is therefore not redundant with the other, more focused, characteristics required of peer reviewers.

Changes: None.

Role of Department Staff (§ 702.10)

Comments: Two commenters expressed concern over the appropriate role of the OERI staff in the review process. One commenter urged the Department to use all outside reviewers. The other commenter acknowledged the knowledge and skills of the OERI staff but suggested that staff not serve as peer reviewers within the primary division of an agency in which they work and that each peer review panel be limited to one Department staff person. This commenter suggested that the staff focus on the important role of mentoring and designing competitions.

Discussion: The Secretary agrees that the primary role of the OERI staff should be management of competitions including assessing the results of peer reviews and monitoring awards. The Secretary believes that the purpose of the peer review process should be to acquire the perspective of outside experts independent of OERI. The Secretary also believes that there may be exceptional circumstances where expertise resides in OERI or in the Department, or where outside reviewers are not required such as in the review of small purchase orders. The exceptions should be determined by the Assistant Secretary.

Changes: Section 702.10(d) has been reworded to preclude OERI and other Department staff from serving as peer reviewers except in exceptional circumstances as determined by the Assistant Secretary.

Conflict of Interest (§ 702.11)

Comment: One commenter was concerned that while the conflict of interest requirements were "legally correct" they failed to address the problem occasioned by reviewers who

may have ideological or methodological view points that differ from those of the recipient to be evaluated, or who are affiliated with competing institutional organizations.

Discussion: The commenter appears to be concerned that the proposed conflict of interest provision does not address the potential problem of bias on the part of a panel against a particular grantee on ideological or other grounds. The Secretary first believes that it is essential to retain the present language, which parallels the provision in the standards at 34 CFR 701.11(c), because it highlights the important issue of improper financial gain or the appearance of improper gain. However, the Secretary agrees that adding a requirement to the effect that panels selected by the Assistant Secretary reflect a broad range of perspectives could strengthen the regulation.

Changes: A new paragraph "(c)" has been added to § 702.13 requiring the Assistant Secretary, to the greatest extent feasible, to select peer reviewers for each evaluation who represent a broad range of perspectives.

Sources of Information (§§ 702.22 and 702.23)

Comment: One commenter suggested that the use of Government Performance and Results Act (GPRA) information should be encouraged rather than required for both interim and final assessments. The commenter is concerned that information currently being collected under GPRA to evaluate the effectiveness of a program or a system-level activity will not provide information relevant to the assessment of individual awards under that program or system-level activity and therefore should not be required.

Discussion: The Secretary agrees that information obtained by GPRA-related reports on the effectiveness of a program or system level activity, e.g., how effectively a program is meeting the overall objectives defined for it in its authorizing legislation, may not necessarily include information related to an individual award being reviewed under this regulation. However, the Secretary believes that information on the effectiveness of the particular program under which a recipient receives funding will help to provide a context for the review of an individual award and must be considered by the panel. Moreover, these regulations make it clear that the GPRA information is only one of a number of sources used in conducting the review.

Changes: None.

Comment: One commenter suggested that the findings and information from interim assessments would be an important source of information for the final assessments and should be included under § 702.23(a).

Discussion: The Secretary agrees that the results of interim assessments should be a source of information for final assessments.

Change: Section 702.23(a) has been modified to add a new paragraph (§ 702.23(a)(5)) to require that the results of interim assessments be considered as a source of information for final assessments.

Evaluation Criteria (§ 702.24)

Comments: Two commenters suggested changes to this section. One commenter suggested that there be a single menu of criteria for the standards, because the proposed menu is too long. The second commenter suggested that since Field Initiated Studies are not likely to provide services, the word "services" be deleted from the criterion in § 702.24(e)(4)(ii): "* * * addresses issues of national significance through its products or services, or both."

Discussion: The Secretary believes the current menu approach provides a comprehensive strategy for assessing the performance of all activities, ranging from the smallest purchase order to the largest research investments. The categories in the regulation reflect the specific authorities in the OERI statute. In addition, the menu provides for other criteria for future research investments that do not fit within the statutory authorities yet also must be assessed. A single menu would, of necessity, be too generic to apply to the wide range of activities covered by these standards. The Secretary agrees that assessing "services" is not appropriate for Field Initiated Studies projects.

Change: Section 702.24(e)(4)(ii) has been modified to delete the word, "services."

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collection of information in these final regulations is displayed at the end of the affected sections of the regulations.

Assessment of Educational Impact

In the NPRM the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the NPRM and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 702

Education, Educational research, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: October 22, 1998.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

The Secretary amends Chapter VII of Title 34 of the Code of Federal Regulations by adding a new Part 702 to read as follows:

PART 702—STANDARDS FOR CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI)—EVALUATION OF THE PERFORMANCE OF RECIPIENTS OF GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS

Subpart A—General

Sec.

702.1 What is the purpose of these standards?
702.2 What activities must be evaluated by these standards?
702.3 What additional activities may be evaluated by these standards?
702.4 When is performance assessed under these standards?
702.5 What definitions apply?

Subpart B—Selection of Peer Review Panels

702.10 What are the characteristics of peer reviewers?
702.11 What constitutes a conflict of interest for grants and cooperative agreements?
702.12 What constitutes a conflict of interest for contracts?
702.13 How are peer reviewers selected for panels?

Subpart C—The Evaluation Process

702.21 How does a peer review panel evaluate the performance of a recipient?
702.22 What information does a peer review panel consider for an interim assessment?
702.23 What information does a peer review panel consider for a final assessment?
702.24 What evaluation criteria must be used for performance assessments?

Authority: 20 U.S.C. 6011(i), unless otherwise noted.

Subpart A—General

§ 702.1 What is the purpose of these standards?

(a) The standards in this part implement section 912(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (the Act).

(b) These standards establish criteria and a peer review process to provide recipients of OERI grants, cooperative agreements and contract awards with assessments of their projects.

(1) The purpose of the assessments is to provide feedback to recipients to improve the quality of funded activities and to provide information to OERI as it determines if a recipient of a multi-year award merits continuation funding.

(2) The criteria and peer review process are intended to address the statutory requirement that the research, development, and dissemination activities carried out by the recipients of grants from and contracts and cooperative agreements with the Office of Educational Research and Improvement (OERI) meet the highest standards of professional excellence.

(Authority: 20 U.S.C. 6011(i)(2)(F))

§ 702.2 What activities must be evaluated by these standards?

These standards apply to activities carried out by OERI using funds appropriated under section 912(m) of the Act including activities carried out by the following entities or programs:

(a) The National Education Research Institutes.

(b) The Office of Reform Assistance and Dissemination.

(c) The Educational Resources Information Center.

(d) The Regional Educational Laboratories.

(e) The Teacher Research Dissemination Demonstration Program.

(f) The Goals 2000 Community Partnerships Program.

(g) The National Educational Research Policy and Priorities Board.

(Authority: 20 U.S.C. 6011(i)(1))

§ 702.3 What additional activities may be evaluated by these standards?

The Secretary may apply these standards to other activities funded by the Department, as appropriate.

(Authority: 20 U.S. C 6011 (i)(1))

§ 702.4 When is performance assessed under these standards?

(a) The Secretary will assess the performance of recipients of OERI grants, contracts, and cooperative agreements subject to these standards during and at the conclusion of their period of performance.

(b) The Department requires at least one interim assessment by a peer review panel for all awards.

(c) The Assistant Secretary will approve and require more than one interim assessment when an award is identified, either by the initial interim review or by Department of Education staff monitoring the award, as having difficulty in achieving project objectives.

(d) A final assessment by a peer review panel is required for all awards.

(e) As used in this part—

(1) Interim assessment is any assessment conducted during a recipient's period of performance.

(2) Final assessment is one conducted at the conclusion of a recipient's period of performance.

(Authority: 20 U.S.C. 6011(i)(2)(F))

§ 702.5 What definitions apply?

(a) *Definitions in the Educational Research, Development, Dissemination, and Improvement Act of 1994.* The following terms used in this part are defined in 20 U.S.C. 6011(l)(1):

Development
Dissemination
Educational Research

(b) *Definitions in the Education Department General Administrative Regulations.* The following terms used in this part are defined in 34 CFR 77.1:

Application
Award
Department
Grant
Project
Secretary

(c) *Definitions in the Federal Acquisition Regulation.* The following term used in this part is defined in 48 CFR Chapter 1: Contract Proposal.

(Authority: 20 U.S.C. 6011(i)(2)(F)

Subpart B—Selection of Peer Review Panels

§ 702.10 What are the characteristics of peer reviewers?

(a) The Assistant Secretary selects each peer reviewer. Each peer reviewer must have the necessary knowledge and expertise in the area of the project being reviewed to evaluate the performance of a recipient. This experience may include—

(1) Expert knowledge of subject matter in the area of the activities to be reviewed;

(2) Expert knowledge of theory or methods or both in the area of the activities to be reviewed;

(3) Practical experience in the area of the activities or type of institution or both to be reviewed;

(4) Knowledge of a broad range of education policies and practices;

(5) Experience in managing complex organizations; or

(6) Expertise and experience in evaluation theory and practice.

(b) Each peer reviewer must be free of conflict of interest, as determined in accordance with § 702.11 or § 702.12.

(c) The Assistant Secretary may solicit nominations for peer reviewers from professional associations, nationally recognized experts, and other sources.

(d) OERI and other Department staff who possess the qualifications in paragraphs (a) and (b) of this section may serve as peer reviewers only in exceptional circumstances as determined by the Assistant Secretary.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 702.11 What constitutes a conflict of interest for grants and cooperative agreements?

A peer reviewer assessing the performance of the recipient of a grant

from or cooperative agreement with OERI is considered an employee of the Department for the purposes of conflict of interest analysis. As an employee of the Department, the peer reviewer is subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department's policies used to implement those provisions.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 702.12 What constitutes a conflict of interest for contracts?

A peer reviewer assessing the performance of the recipient of a contract with OERI is considered an employee of the Department in accordance with the Federal Acquisition Regulation (FAR), 48 CFR 3.104–4(h)(2). As an employee of the Department, the peer reviewer is subject to the provisions of the FAR, 48 CFR Part 3, Improper Business Practices and Personal Conflict of Interest.

(Authority: 41 U.S.C. 423)

§ 702.13 How are peer reviewers selected for panels?

(a) The Assistant Secretary assigns peer reviewers to panels that conduct the performance assessments.

(b) The Assistant Secretary may establish panels by category of recipient, such as a panel to review the performance of all Regional Educational Laboratories. Each recipient is evaluated individually by reviewers who have been assigned to this type of panel.

(c) In establishing panels, the Assistant Secretary, to the greatest extent feasible, selects peer reviewers for each evaluation who represent a broad range of perspectives.

(Authority: 20 U.S.C. 6011(i)(2)(B))

Subpart C—The Evaluation Process

§ 702.21 How does a peer review panel evaluate the performance of a recipient?

(a) In each evaluation, a peer review panel—

(1) Considers relevant information about the recipient's performance, as described in §§ 702.22 and 702.23; and

(2) Makes judgments about the recipient's performance, using the criteria in § 702.24.

(b) Each peer reviewer prepares a report based on the reviewer's assessment of the quality of the project according to the evaluation criteria.

(c) After each peer reviewer has evaluated each project independently, the panel may be convened to discuss the strengths and weaknesses of the project. Each reviewer may then independently re-evaluate each project with appropriate changes made to the written report.

(d) The report of the interim assessment must include any recommendations the peer reviewer may have for improving the recipient's performance.

(e) The report of the final assessment must contain each peer reviewer's evaluative summary of the recipient's performance, from the beginning of the contract, grant, or cooperative agreement to its conclusion.

(Authority: 20 U.S.C. 6011(i)(2)(F))

§ 702.22 What information does a peer review panel consider for an interim assessment?

(a) Sources of information for the interim assessment must include—

(1) The original request for proposals or grant announcement and the contract proposal or grant application;

(2) Documentation of any changes in the work described in the contract, grant, or cooperative agreement, including reasons for the changes;

(3) Any progress reports delivered to the Department or made available to the public by the recipient;

(4) Examples of products delivered to the Department or made available to the public by the recipient;

(5) Any relevant reports written by OERI staff, including reports of site visits by OERI staff;

(6) Any performance evaluations conducted under the FAR or the Education Department General Administrative Regulations (34 CFR Part 75).

(7) Any relevant information provided by the recipient in response to Government Performance and Results Act (GPRA) (Pub. L. 103–62) requirements; and

(8) Any reports from program evaluations commissioned by the Department.

(b) Sources of information for the interim assessment may also include—

(1) A self-assessment, prepared by the recipient, addressing the criteria in § 702.24;

(2) One or more site visits by the peer review panel;

(3) One or more oral or written presentations to the panel by the recipient describing its performance; or

(4) Other information about the recipient's performance.

(Approved by the Office of Management and Budget under control number 1850–0746)

(Authority: 20 U.S.C. 6011(i)(2)(F))

§ 702.23 What information does a peer review panel consider for a final assessment?

(a) Sources of information for the final assessment must include—

(1) The original request for proposals or application notice and the contract proposal or grant application, together with documentation of any changes in the work described in the proposal or application, including reasons for the changes;

(2) If consistent with the recipient's contract, grant, or cooperative agreement with OERI, a written report or oral presentation or both by the recipient summarizing its activities and accomplishments;

(3) Any relevant information provided by the recipient in response to Government Performance and Results Act (GPRA) (Pub. L. 103–62) requirements;

(4) Any reports from program evaluations commissioned by the Department; and,

(5) Any relevant information provided by the interim assessment.

(b) The final assessment may also include other sources of information, such as one or more of those listed in § 702.22.

(Approved by the Office of Management and Budget under control number 1850–0746)

(Authority: 20 U.S.C. 6011(i)(2)(F))

§ 702.24 What evaluation criteria must be used for performance assessments?

(a) Peer reviewers (and those recipients who conduct self-evaluations) shall use the criteria in paragraph (b) of this section to assess performance and, in case of interim assessments, to identify areas in which the performance of recipients may need improvement.

(b) The following evaluation criteria are to guide the assessment process undertaken by peer reviewers. The peer reviewers determine the extent to which recipients meet these criteria:

(1) *Implementation and management.*

(i) Peer reviewers shall consider the degree to which the recipient has fully executed its program of work. In doing so, peer reviewers shall consider evidence on the extent to which the recipient completes the work described in the approved application or contract, including any approved modifications, in the time period proposed and in an efficient manner.

(ii) In examining the degree of implementation, peer reviewers may also consider evidence on the extent to which—

(A) The recipient implements and utilizes a quality assurance system for its products or services or both; and

(B) The recipient conducts self-assessment or self-evaluation activities, including periodically seeking out independent critiques and evaluations of its work, and uses the results to improve performance.

(2) *Quality.* (i) Peer reviewers shall consider the degree to which the

recipient's work approaches or attains professional excellence. In determining quality, peer reviewers shall consider evidence on the extent to which—

(A) The recipient utilizes processes, methods, and techniques appropriate to achieve the goals and objectives for the program of work in the approved application; and

(B) The recipient applies appropriate processes, methods, and techniques in a manner consistent with the highest standards of the profession.

(ii) In determining quality, peer reviewers may also consider the extent to which the recipient conducts a coherent, sustained program of work informed by relevant research.

(3) *Utility.* (i) In determining the utility of the recipient's products or services or both, peer reviewers shall consider evidence on the extent to which the recipient's work (including information, materials, processes, techniques, or activities) is effectively used by and is useful to its customers in appropriate settings.

(ii) In determining utility, peer reviewers may also consider the extent to which the recipient has received national recognition; e.g., articles in refereed journals and presentations at professional conferences.

(4) *Outcomes and impact.* (i) Peer reviewers shall consider the results of the recipient's work. In examining outcomes and impact, peer reviewers shall consider evidence on the extent to which—

(A) The recipient meets the needs of its customers; and

(B) The recipient's work contributes to the increased knowledge or understanding of educational problems, issues, or effective strategies.

(ii) In examining outcomes and impact, peer reviewers may also consider the extent to which recipients address issues of national significance through its products or services or both.

(c) For National Research and Development Centers, peer reviewers also shall consider evidence on the extent to which recipients meet the following criteria:

(1) *Quality.* (i) The recipient uses a well-conceptualized framework and sound theoretical and methodological tools in conducting professionally rigorous studies; and

(ii) The recipient conducts work of sufficient size, scope, and duration to produce sound guidance for improvement efforts and future research.

(2) *Utility.* The recipient documents, reports, and disseminates its work in ways to facilitate the effective use of its work in appropriately targeted settings.

(3) *Outcomes and impact.* (i) The recipient's work contributes to the development and advancement of theory in the field of study, including its priority area; and

(ii) The recipient addresses issues of national significance through its products or services or both.

(d) For the Regional Educational Laboratories, peer reviewers also shall consider evidence on the extent to which recipients meet the following criteria:

(1) *Quality.* (i) The recipient utilizes a well-conceptualized framework and sound theoretical and methodological tools in conducting professionally rigorous studies;

(ii) The recipient conducts work of sufficient size, scope, and duration to produce sound guidance for improvement efforts; and

(iii) The recipient's products are well tested and based on sound research.

(2) *Utility.* The recipient documents, reports, and disseminates its work in ways to facilitate its effective use in appropriately targeted settings, particularly in school improvement efforts of States and localities.

(3) *Outcomes and impact.* (i) The recipient assists States and localities to implement comprehensive school improvement strategies through the provision of research-based information (including well-tested models and strategies), materials and assistance; and

(ii) The recipient's work results in widespread access to information regarding research and best practices, particularly within its region.

(e) For Field-Initiated Studies, peer reviewers also shall consider evidence on the extent to which recipients meet the following criteria:

(1) *Implementation and management.* The recipient's work responds to the goals, objectives and mission of the National Institute from which it is funded.

(2) *Quality.* The recipient utilizes a well-conceptualized framework and sound theoretical and methodological tools in conducting professionally rigorous studies.

(3) *Utility.* The recipient documents, reports, and disseminates its work in ways to facilitate its effective use in appropriately targeted settings.

(4) *Outcomes and impact.* (i) The recipient's work contributes to the development and advancement of theory and knowledge in the field of study; and

(ii) The recipient addresses issues of national significance through its products.

(f) For the ERIC Clearinghouses, peer reviewers also shall consider evidence on the extent to which recipients meet the following criteria:

(1) *Quality.* The recipient applies an integrated approach to acquiring and disseminating significant and high-quality educational literature and materials to maintain and enhance the ERIC database.

(2) *Utility.* The recipient contributes to the development of the ERIC database as a source of literature and materials that reflects trends and issues within its scope.

(3) *Outcomes and impact.* (i) The recipient meets the informational and educational needs of its customers through dissemination and outreach approaches and the development of an array of print and non-print materials; and

(ii) The recipient provides national leadership on the use of current computer, networking, and information technology.

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(Authority: 20 U.S.C. 6011(i)(2)(F))

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